

## CAPT. ERNEST MOUNTAIN

JUNE 30, 1960.—Ordered to be printed

Mr. EASTLAND, from the Committee on the Judiciary, submitted the following

### REPORT

[To accompany S. 3507]

The Committee on the Judiciary, to which was referred the bill (S. 3507) for the relief of Capt. Ernest Mountain, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill, as amended, do pass.

#### AMENDMENT

Strike all after the enacting clause and insert in lieu thereof, the following:

That, for the purposes of the Immigration and Nationality Act, Captain Ernest Mountain shall be held and considered to have been lawfully admitted to the United States for permanent residence as of June 30, 1929, upon payment of the required visa fee.

#### PURPOSE OF THE BILL

The purpose of the bill, as amended, is to grant the status of permanent residence in the United States to Capt. Ernest Mountain as of June 30, 1929. The bill provides for the payment of the required visa fee. The bill has been amended in accordance with established precedents.

#### STATEMENT OF FACTS

The beneficiary of the bill is a 51-year-old native and citizen of Canada who is married to a U.S. citizen. He has resided in the United States since June 30, 1929, and believed that he derived U.S. citizenship through the naturalization of his father. However, he has been unable to obtain a certificate of citizenship because of his inability to verify his original entry into the United States in 1929. He has been employed on U.S. vessels and has held the rank of lieutenant commander in the U.S. maritime service since March 25,

1943. He was last employed as a shipmaster by the Isbrandtsen Co. and has served in that capacity for the past 12 years. There is an urgent need for shipmasters' and U.S. citizenship is a prerequisite to the issuance of a master's certificate for service on U.S.-flag ships.

A letter, with attached memorandum, dated June 20, 1960, to the chairman of the Senate Committee on the Judiciary from the Commissioner of Immigration and Naturalization with reference to the bill reads as follows:

DEPARTMENT OF JUSTICE,  
IMMIGRATION AND NATURALIZATION SERVICE,  
*Washington, D.C., June 20, 1960.*

A-11-880100.

Hon. JAMES O. EASTLAND,  
*Chairman, Committee on the Judiciary,*  
*U.S. Senate, Washington, D.C.*

DEAR SENATOR: In response to your request for a report relative to the bill (S. 3507) for the relief of Capt. Ernest Mountain, there is attached a memorandum of information concerning the beneficiary. This memorandum has been prepared from the Immigration and Naturalization Service files relating to the beneficiary by the Miami, Fla., office of this Service, which has custody of those files.

The bill would waive the residence and physical presence requirements of the Immigration and Nationality Act and permit the beneficiary to file a petition for naturalization immediately.

Sincerely,

J. M. SWING, *Commissioner.*

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND  
NATURALIZATION SERVICE FILES RE CAPT. ERNEST MOUNTAIN,  
BENEFICIARY OF S. 3507

The beneficiary, a native and citizen of Canada, was born on April 9, 1909, and now resides in Miami, Fla. He has maintained his residence in the United States since June 30, 1929. He completed 5 years of elementary school in his native country and engaged in the profession of a merchant seaman from 1925 to October 1959. The beneficiary was last employed as a ship's master by the Isbrandtsen Co., New York, N.Y., from which he derived an annual income of \$14,000. His assets consist of real and personal property valued at \$26,500, a trust fund of \$7,000 and a savings account of \$4,000. His real property bears an encumbrance of \$9,800. The beneficiary has held the rank of lieutenant commander in the U.S. Maritime Service since March 25, 1943. He was married to Ethel Myzie Larkin, a native of Canada, on September 14, 1933, in Somerville, Mass. Mrs. Mountain became a citizen of the United States by naturalization on December 21, 1956, and is dependent upon her husband for her support.

The beneficiary's parents, who are deceased, were natives of Canada and naturalized citizens of the United States. According to the beneficiary, he believed himself to be a derivative citizen of the United States based on his father's naturalization. He learned that he did not acquire such

citizenship upon applying for a U.S. passport in 1958. On June 2, 1959, he submitted to this Service an application for a certificate of citizenship under section 341 of the Immigration and Nationality Act. This application was denied by the District Director of this Service at Miami, Fla., on January 19, 1960, on the ground that the beneficiary's original entry into the United States on June 30, 1929, could not be verified. He withdrew his application and departed from the United States on the same day. The beneficiary was thereafter admitted to the United States as a permanent resident on January 21, 1960.

By virtue of his marriage to a citizen of the United States the beneficiary will become eligible to petition for citizenship on January 21, 1963.

Senator George A. Smathers, the author of the bill, has submitted the following information in connection with the case:

STATE OF FLORIDA,  
*County of Dade, ss:*

I, Ethel Myzie Mountain nee Larken, after first being duly sworn on oath depose and say:

That I am presently residing at 4 Northwest 91st Street, Miami, Fla., with my husband, Capt. Ernest Mountain.

That I met and married my husband, Capt. Ernest Mountain in Somerville, Mass.

That I have known him since the year 1929 and was married to him on September 14, 1933.

That I can attest to the fact that he has lived in the United States continuously with me since our date of marriage and before that since 1929 in Somerville, Mass.

Further affiant sayeth not.

ETHEL MYZIE MOUNTAIN.

Subscribed and sworn to before me this 7th day of April 1960 at Miami, Fla.

[SEAL]

ESTEFANIA SANTOS,  
*Notary Public, State of Florida, at Large.*

STATE OF FLORIDA,  
*County of Dade, ss:*

I, Capt. Ernest Mountain, presently residing at 4 Northwest 91st Street, Miami, Fla., after first being duly sworn on oath depose and say:

That I entered the United States from Canada in June of the year 1929 and went to live in Somerville, Mass., until November 1947. My last address in Somerville was 29 Prichard Avenue. That I married my wife, Ethel Myzie Mountain nee Larken at Somerville, Mass., on September 14, 1933.

That my wife and myself moved to Miami, Fla., in November 1947 where we lived at 114 Northwest 118th Street until November 1951 and then moved into our own home at 4 Northwest 91st Street where we still reside.

That I have been employed since 1929 until the present time as follows:

1. Standard Fruit & Steamship Co. with home office in New York from 1929 until 1931 as deck officer.
2. American Hawaiian Steamship Co. with offices in New York and San Francisco from 1932 until 1934 as deck officer.
3. United Fruit Co. with offices in New York and Boston from 1935 to 1942 as deck officer.
4. Worked with various companies under the War Shipping Administration as captain of various ships.
5. Isbrandtsen Co., Inc., 26 Broadway, New York, N.Y., from 1947 until 1959 as captain.

Further affiant sayeth not.

CAPT. ERNEST MOUNTAIN.

Subscribed and sworn to before me this 7th day of April 1960 at Miami, Fla.

[SEAL]

ESTEFANIA SANTOS,  
*Notary Public, State of Florida, at large.*

WALTERS, MOORE & COSTANZO,  
ATTORNEYS AT LAW,  
*Miami, Fla., March 14, 1960.*

Re Capt. Ernest Mountain.  
Hon. GEORGE A. SMATHERS,  
*Senate Office Building,  
Washington, D.C.*

DEAR SENATOR SMATHERS: I represent Capt. Ernest Mountain who resides in this city at 4 Northwest 91 Street with his American citizen wife. He was born at Princeton, Prince Edward Island, Canada, on April 9, 1909. For the past 30 years, he has been employed on American vessels and for the past 15 he has served as a captain for the famous Isbrandtsen Co., Inc., 26 Broadway, New York, N.Y.

Captain Mountain came to the United States to join his mother and father in 1929. His name appeared on the naturalization certificate of his father and he has functioned as a U.S. citizen all the years he has been in the United States including wartime service during World War II and the Korean war. Recently, in connection with meeting the requirements of functioning as captain of this transportation company, it was necessary that he obtain a certificate of citizenship and the application was made with the U.S. Immigration and Naturalization Service at Miami, Fla. A prerequisite to the issuance of the certificate is that the Immigration Service be able to verify his admission into the United States for permanent residence. Both the Immigration Service and ourselves have diligently attempted to locate a record of his entry; however, the border records around the year 1929 are not too reliable and we have not been able to verify his entry. We have also checked with the U.S. Embassy in Canada to determine if a visa was issued. The Embassy advised us that they have no records pertaining to the year 1929 because of the disposition of the records for that year. A copy of that letter is attached.



Needless to say, we were faced with only one solution to the problem and that was to immediately obtain a record of entry for permanent residence which was done and he was admitted for permanent residence on January 21, 1960, at Miami, Fla., file No. A 11880100. Of course, it is now necessary that he become naturalized and, as the spouse of an American citizen, he must wait a period of 3 years.

The object of this correspondence is to enlist the aid of Congress to waive the 3-year waiting period so that he can resume his duties as ship's master. This request is predicated upon the urgent need of companies serving the transportation needs of our Government of trained and experienced ships' masters. I am attaching hereto a letter from his employer which covers this aspect quite thoroughly.

If you are in a position to give active consideration to this request, I would be glad to provide whatever material you will need.

Thank you for your usual kind consideration of these matters.

Yours very truly,

DAVID W. WALTERS.

ISBRANDTSEN Co., Inc.,  
MERCHANTS AND SHIPOWNERS,  
New York, N.Y., November 18, 1959.

HON. GEORGE SMATHERS,  
*Senate Office Building, Washington, D.C.*

DEAR SENATOR SMATHERS: We are writing at the request and in behalf of Capt. Ernest Mountain, whose residence is 4 Northwest 91st Street, Miami, Fla. We may add that Captain Mountain has been a valuable and trusted employee of this company for the past 12 years as master of American-flag steamers we operate on fortnightly schedule in our service from U.S. North Atlantic ports eastbound around the world.

Captain Mountain, according to our information, was born in Montreal, Canada, April 9, 1909, and came to this country with his father in 1929. His father became an American citizen, and Captain Mountain states he was shown on his father's citizenship papers as an American citizen. Captain Mountain got his mate's license, and later his master's license as an American citizen, and has regarded himself as such for the past 30 years.

In July 1959 our customs authorities requested he show his American citizenship papers, which he did not have. He has been trying to get his record of entry which is necessary if he is to obtain final proof of his citizenship for the purpose of obtaining a certificate of citizenship. Captain Mountain must be an American citizen to be master of an American-flag ship; therefore, at the present time he is in a most difficult situation. There is an extreme shortage of ships' masters having the high qualifications required for American steamers and we badly need Captain Mountain in our American-flag steamship service.

We are informed by Captain Mountain's attorney, Mr. David W. Walters, that he is trying to obtain a record of entry, but even so a lengthy waiting period would be involved. We are informed a waiver of the waiting time prior to naturalization, under special circumstances, can only be obtained by a special act of Congress. Therefore, an earnest request is made of you to consider introducing a special bill

in Congress to accomplish what is so badly needed under these difficult circumstances.

If you are willing to consider helping Captain Mountain but need additional information, he will appreciate the opportunity to call on you at any time and place convenient to you.

Your advice in this matter will be greatly appreciated by Captain Mountain, and by this company.

Very truly yours,

JAKOB ISBRANDTSEN.

The committee, after consideration of all the facts in the case, is of the opinion that the bill (S. 3507), as amended, should be enacted:

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